

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
September 22, 2011

In the Matter of RODRIGUEZ, Minors.

No. 303380
Saginaw Circuit Court
Family Division
LC No. 10-032835-NA

Before: MURPHY, C.J., and FITZGERALD and TALBOT, JJ.

MEMORANDUM.

Respondent J. Rodriguez appeals as of right from a circuit court order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(b)(ii) and (j). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing legally admissible evidence, MCR 3.977(E)(3) and (K); *In re Utrera*, 281 Mich App 1, 16-17; 761 NW2d 253 (2008), or in finding that termination of respondent's parental rights was in the children's best interests. MCR 3.977(E)(4); MCL 712A.19b(5).

The oldest child, age six, disclosed that her father had been sexually abusing her since she was four years old, and the father admitted to sexually abusing the two older children. The oldest child also disclosed that she had told respondent about the abuse more than once and that respondent simply told her to say "no" to her father's advances. Testimony also showed that respondent admitted to a friend more than a year before the abuse came to light that she suspected her husband of abusing the children, but she continued to leave them in their father's care. The abuse continued unabated and both older children were "severely emotionally disturbed" as a result. Although respondent testified that she never knew of or suspected the abuse and that the oldest child never told her about it, the trial court rejected respondent's testimony as not credible. This Court must give due regard to the trial court's superior opportunity and ability to judge the credibility of witnesses. *Sparling Plastic Indus, Inc v Sparling*, 229 Mich App 704, 716; 583 NW2d 232 (1998). The trial court did not clearly err in finding that the evidence supported termination of respondent's parental rights.

Respondent argues that the trial court should not have admitted the oldest child's hearsay statements because [the statements](#) were admitted through other witnesses under MCR 3.972(C), and the testimony of those witnesses was somewhat contradictory. She further argues that the forensic interview at which the statements were made should have been recorded and the recording, instead of the witness testimony, admitted at trial. However, the record supports the

trial court's determination that the circumstances surrounding the giving of the statements, which related to child neglect as defined by MCL 722.622(j)(ii), provided adequate indicia of their trustworthiness. *In re Archer*, 277 Mich App 71, 82; 744 NW2d 1 (2007); *In re Brimer*, 191 Mich App 401, 405; 478 NW2d 689 (1991). Further, MCL 712A.17b(5) prohibits the admission of a recording of a child's interview at the adjudicatory hearing. Therefore, the trial court did not err when it accepted the witnesses' hearsay testimony regarding the child's statements.

Affirmed.

/s/ William B. Murphy
/s/ E. Thomas Fitzgerald
/s/ Michael J. Talbot